

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7956

BILL NUMBER: HB 1578

DATE PREPARED: Feb 27, 2001

BILL AMENDED: Feb 27, 2001

SUBJECT: Tax Administration and Motor Vehicles.

FISCAL ANALYST: James Sperlik, Diane Powers

PHONE NUMBER: 232-9866, 232-9853

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill makes the following provisions:

- 1) Provides that for purposes of the gross income tax, a unitary group does not include an entity that does not transact business in Indiana;
- 2) Changes the dates by which estimated quarterly financial institutions tax returns must be filed;
- 3) Repeals the requirement that the Department of State Revenue must issue transporter emblems for certain vehicles transporting gasoline;
- 4) Specifies that the Department may enter into the International Fuel Tax Agreement and makes related changes;
- 5) Provides that if a notice of proposed assessment is returned because a taxpayer has moved and the Department is unable to determine the taxpayer's new address, the Department may make an assessment for taxes without providing certain notices that would otherwise be required;
- 6) Provides that a driver who commits certain serious traffic violations related to railroad crossings while operating a commercial motor vehicle is disqualified from driving such a vehicle for specified periods;
- 7) Provides that a pass through entity is a taxpayer for purposes of claiming the prison investment tax credit;
- 8) Provides that when a Circuit Court Clerk enters a tax warrant in the judgment record, the total amount of the tax warrant becomes a judgment lien against the person owing the tax (Current law provides that the total amount of the tax warrant becomes a judgment against the person owing the tax.);

9) Provides that a judgment arising from a tax warrant is enforceable in the same manner as any judgment issued by a court of general jurisdiction;

10) Provides that the Department of State Revenue may initiate proceedings supplemental in any court of general jurisdiction in a county in which a judgment arising from a tax warrant has been recorded;

11) Requires the owners of commercial motor vehicles having a gross vehicle weight of more than 80,000 but less than 134,000 pounds to: a) register annually with the Department of State Revenue; b) install an electronic device for tracking the location of vehicles; and c) pay an annual registration fee;

12) Provides that the civil penalties must be deposited into the Motor Carrier Regulation Fund; and

13) Allows a credit for Commercial Motor Vehicle Excise taxes paid on a vehicle if: a) the owner sells the vehicle and purchases a new vehicle of the same or greater weight; b) the vehicle is destroyed and replaced with a vehicle of the same or greater weight; or c) the vehicle was erroneously registered at a greater weight than required.

Effective Date: July 1, 2001; January 1, 2002; July 1, 2002.

Explanation of State Expenditures: (Revised) A summary of the provisions are listed below.

1) The bill provides that for purposes of the gross income tax, a unitary group does not include an entity that does not transact business in Indiana.

2) The bill also changes the dates by which estimated quarterly Financial Institutions Tax (FIT) returns must be filed.

The date change will put financial institutions taxpayers on the same deadlines for quarterly payment of estimated taxes that other corporate taxpayers are on. Currently FIT quarterly payments for taxpayers who use a tax year which ends December 31 are filed on April 30, July 30, October 30 and January 30. This bill changes the filing dates to April 20, June 20, September 20 and December 20. There is a noncode provision which ensures that these dates do not affect total payments during the tax year.

Impact: The combined processing of returns provides some administrative simplification for both the Department of State Revenue and taxpayers.

3) The bill repeals the requirement that the Department of State Revenue must issue transporter emblems for certain vehicles transporting gasoline.

DOR reports that these requirements have never been met because of federal preemption, and because the vehicle registration process has eliminated the need for these emblems.

Impact: There would be no fiscal impact.

4) The bill specifies that the Department may enter into the International Fuel Tax Agreement (IFTA).

Indiana already is a signatory to this Agreement. In 1999, the National Conference of State Legislatures (NCSL), conducted a study of this Agreement to identify potential problems and make general recommendations to the states and participating Canadian provinces.

A general recommendation was to clarify the legal relationships between the IFTA agreement itself (and other IFTA documents) and state statutes and administrative rules. The proposed language clarifies that if there is a conflict, Indiana statutes supersede the IFTA Agreement and documents, but that the Agreement may supersede Indiana administrative rules in the even of a conflict. The changes also attempt to clarify the authority of the General Assembly vis-a-vis that of the IFTA. All the other changes are made to conform to this principle.

Impact: There should be no fiscal impact as a result of these changes.

5) The bill provides that if a notice of proposed assessment is returned because a taxpayer has moved and the Department is unable to determine the taxpayer's new address, the Department may make an assessment for taxes without providing certain notices that would otherwise be required.

Under current law, the DOR must continue to send tax assessment notices to a taxpayer even though the Postal Service returns the notices due to lack of forwarding address.

Impact: There would be minor administrative savings.

6) The bill provides that a driver who commits certain serious traffic violations related to railroad crossings while operating a commercial motor vehicle is disqualified from driving such a vehicle for specified periods.

The U.S. Congress has mandated the states to make certain changes in their statutes concerning Commercial Drivers' License (CDL) driver safety related to railroad crossings. (If this is not done by 2002, there is a risk of loss of federal funding in the amount up to \$3 million.) Essentially, these changes identify those Indiana offenses that constitute "serious traffic violations" involving railroad crossing activity. Second, the Department of State Revenue must disqualify a CDL driver for various periods of time, if he is convicted of "serious traffic violations".

Impact: There would be no apparent fiscal impact from these changes.

Explanation of State Revenues: (Revised) 7) This bill expands the prison investment credit to allow pass through entities to be entitled to this credit. The current tax credit is allowed for investment in qualified property or wages paid to inmates as approved by an agreement with the Department of Correction (DOC). The credit is limited to the lesser of 1) the taxpayer's tax liability; 2) the sum of 50% of the investment in qualified property plus 25% of wages paid to inmates; or 3) \$100,000. Currently this credit may only be taken by regular C corporations. The credit is not refundable.

Impact: Currently the DOC has agreements with 2 regular corporations and 7 subchapter S corporations for work to be performed by DOC inmates. The total amount of wages involved are estimated at \$684,000. If all of these wages qualified for a tax credit, the maximum loss of revenue would be \$171,000. The applicability of the credit is expanded with tax years beginning January 1, 2002, therefore any additional loss of revenue will not impact revenue collections until FY 2003.

Secondary Impact: Wages paid to inmates working under these agreements have generated federal, state, and local income taxes (\$153,380 in FY 2000), victim compensation fund payments (\$137,869 in FY 2000), and room and board reimbursements (\$549,286 in FY 2000).

8) The bill provides that when a Circuit Court Clerk enters a tax warrant in the judgment record, the total

amount of the tax warrant becomes a judgment lien against the person owing the tax. (Current law provides that the total amount of the tax warrant becomes a judgment against the person owing the tax.)

9) The bill provides that a judgment arising from a tax warrant is enforceable in the same manner as any judgment issued by a court of general jurisdiction.

10) The bill also provides that the Department of State Revenue may initiate proceedings supplemental in any court of general jurisdiction in a county in which a judgment arising from a tax warrant has been recorded.

Impact: The Department of State Revenue reports that the impact for parts 8, 9, and 10 will not likely provide for additional revenue, but allows the Department to maintain the status quo regarding tax collections proceedings.

11) The bill requires the owners of commercial motor vehicles having a gross vehicle weight of more than 80,000 but less than 134,000 pounds to: a) register annually with the Department of State Revenue; b) install an electronic device for tracking the location of vehicles; and c) pay an annual registration fee.

Impact: Currently, there are 220 carriers who would pay the annual fee of \$25. This would generate \$5,500 per year in revenue which would be deposited into the Motor Carrier Regulation Fund. In addition, there is a \$1 annual fee for the installation of an electronic device for tracking the location of the vehicles. There are approximately 1,052 vehicles which would be subject to this fee. The additional revenue would amount to \$1,052 and would be deposited into the Motor Carrier Regulation Fund.

12) The bill provides that civil penalties must be deposited into the Motor Carrier Regulation Fund.

Impact: The specific impact will depend upon the number of civil penalties which are imposed. The amount of the penalty is \$500 for each violation as determined by the court.

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) 13) Allows a credit for Commercial Motor Vehicle Excise taxes paid on a vehicle if: a) the owner sells the vehicle and purchases a new vehicle of the same or greater weight; b) the vehicle is destroyed and replaced with a vehicle of the same or greater weight; or c) the vehicle was erroneously registered at a greater weight than required.

Impact: Under current law, certain vehicles were removed from the property tax rolls for taxes payable in CY 2001 and thereafter. These vehicles are now subject to the Commercial Vehicle Excise Tax (CVET). The vehicles that are now taxed under CVET rather than property tax include (1) Indiana-based and non-Indiana-based vehicles (except buses) subject to International Registration Plan (IRP) apportioned registration and (2) trucks, tractors, trailers, semitrailers, and semitractors that are subject to registration with the Indiana Bureau of Motor Vehicles. CVET revenues are distributed to local governmental units and school corporations.

This bill would allow a credit for CVET taxes paid on a vehicle if the owner sells the vehicle and purchases a new vehicle, the vehicle is destroyed and replaced, or the vehicle was erroneously registered at a greater weight than required. New or replacement vehicles must be the same weight or heavier to qualify for the credit. These credits are similar to the credits allowed against the Excise Tax on passenger vehicles.

There would be a minimal reduction in CVET revenue under this bill compared to current collections. The actual amount of revenue reduction is not currently available. However, the CVET revenue forgone under this bill may be unanticipated revenue. Under current law, CVET rates are set as a percentage of registration fees. The percentage is computed by dividing the amount of CVET revenue needed to meet local revenue guarantees by the previous year's registration fee revenue. Registrations can currently be transferred between vehicles, and registration fees are not collected multiple times when trading or replacing vehicles. Since there are no CVET credits available on the same vehicles that can transfer registrations, the CVET rate equation generates unanticipated revenues from these vehicles. By allowing the CVET credits, only the anticipated revenues would be collected.

State Agencies Affected: Department of State Revenue; Bureau of Motor Vehicles.

Local Agencies Affected: Local civil taxing units and school corporations.

Information Sources: Linda Risley, Department of State Revenue, 615-7205; Jane Morrical, Bureau of Motor Vehicles, 232.2822; Arden Chilcote, Department of State Revenue, 232-8022; Becky Gillam, Department of Correction, Pen Products, 388-8580.